FILED November 8, 2013

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MARVIN VERNIS SMITH,
Petitioner - Appellant,
v.
RAUL LOPEZ, Warden,
Respondent – Appellee.

No. 12-55860
8:11-cv-01076-ODW-MRW
U.S. District Court for Central California,
Santa Ana

ORDER

Before: THOMAS and HURWITZ, Circuit Judges, and BEISTLINE, Chief District Judge.*

The panel has voted to deny the petition for rehearing. Judges Thomas and Hurwitz have voted to deny the petition for rehearing en banc and Judge Beistline so recommends.

The full court has been advised of the petition for rehearing en banc, and no judge of the court has requested a vote on the petition for rehearing en banc. Fed. R. App. P. 35(b).

The petition for rehearing and the petition for rehearing en banc are denied.

*The Honorable Ralph R. Beistline, Chief District Judge for the U.S. District Court for the District of Alaska, sitting by designation.